

MOHAVE APACHE INDIANS.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING,

WITH THE DRAFT OF A BILL, COMMUNICATIONS RELATING TO
USE OF CAMP M'DOWELL MILITARY RESERVATION FOR
MOHAVE APACHE INDIANS.

JANUARY 18, 1902.—Referred to the Committee on Indian Affairs and ordered to be
printed.

DEPARTMENT OF THE INTERIOR,
Washington, January 16, 1902.

SIR: I have the honor to transmit herewith copies of the correspondence relating to the securing of lands within the Camp McDowell abandoned military reservation in Arizona for the Mohave Apache Indians, together with the draft of a bill providing for the desired legislation.

The necessity for providing homes for these Indians is fully set out in the papers submitted, and I have the honor to recommend that the matter receive favorable consideration and action by the Congress.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Phoenix, Ariz., February 1, 1900.

SIR: In compliance with your letter, September 13, 1898, inclosing a letter from Gov. N. O. Murphy, and directing that I make a personal examination and report upon the conditions existing upon the Fort McDowell abandoned military reservation, Arizona, I have the honor to submit the following detailed report:

I made a careful field examination, accompanied by J. H. Baker, guide, on January 10, 11, 12, and 13, 1900. During that time I carefully went over the reservation and old military post and examined the unsold buildings and Government improvements. I also secured

the affidavits of numerous citizens who occupy lands upon the reservation, which are herewith appended.

The buildings unsold are as follows:

Company barracks No 11, appraised at.....	\$80. 00
Company quarters (officers')—	
No. 2, appraised at	17. 50
No. 3, appraised at	17. 50
No. 4, appraised at	17. 50
No. 5, appraised at	17. 50

No. 11 is entirely dismantled, nothing now remaining except the adobe walls. My information is that F. M. McCann removed the doors, shutters, and windows from this building, and T. H. Jones and Henry Blue tore down the roof, framework, and all other wood material, and appropriated the same to their own use.

F. M. McCann resides on Carr Creek, and T. H. Jones and Henry Blue reside upon the reservation (McDowell).

Officers' quarters Nos. 2, 3, 4, and 5 were partially dismantled by F. M. McCann, who removed doors, window shutters, and floors. The buildings yet retain roof and framework, and are occupied by nomadic Mexicans.

The only other improvements yet not disposed of are the old Government ditch, the Government farm and garden, the parade grounds, the target-practice grounds, and the post grounds proper.

In reality the only property of any considerable value is the old Government ditch and farm and garden, as stated by Governor Murphy in his letter to you under date of August 11, 1898.

I found that all of the improvements made by the Government are now in the possession and claimed as individual property by squatters. John Miller and C. V. Schawver (latter lately deceased) occupy, have fenced, and cultivated the cavalry parade and target-practice grounds. J. N. Asher and J. D. Adams occupy and have cultivated for several years the Government farm and garden.

J. N. Asher, J. D. Adams, Jas. McCann, Ramon Piannes, et al., have possession of the old Government ditch and hold and use it to the exclusion of all other settlers upon the reservation (numbering some six or eight).

The Government ditch, formerly used to irrigate the Government farm and garden and to supply water for the post stock, was used up to the date of abandoning the military post, 1891. It was not used for three or four years thereafter, and as it crosses a country full of washes, said ditch soon filled with silt and the head gate was washed away and a large bar formed at the head of the ditch.

In 1895 Jas. McCann, Neri Osborn, et al., posted notices locating upon the old Government ditch a subsequent water right, and after duly recording said notice in the county records of Maricopa County, proceeded to reopen said ditch. I made a careful examination of said ditch and am satisfied that the present ditch held by Jas. McCann et al. is practically the same ditch constructed by the Government. No material change has been made. The head of the ditch, or "intake," has been extended through a sandbar which has formed in the old bed of the river, but this is incident to any ditch.

The claimants maintain and allege that they have opened and kept the ditch in repair at great individual expense. This is true, but it is also true and admitted by them that with all the labor they have secured water for irrigation purposes at a less cost than have farmers whose

lands are under the canal systems of the Salt River Valley. In other words, the expense of clearing out and maintaining the ditch has been less than the regular water tax under the canal system in the Salt River Valley.

It is alleged by Asher and Adams, who hold possession of the Government farm and garden, that they found this ground overgrown with mesquite brush. This may be true as to a portion, but even they admit the 12 or 15 acres used as a garden was not so overgrown. The profits from these lands have fully compensated them for any clearing or improving the land.

During the past three years there has been a constant strife among the settlers over this ditch, and it has reached a point where there will be bloodshed if the Government does not take prompt action. Nowhere in the Territory have I found such a deplorable state of affairs. Claim jumping and lawsuits over the ditch are of frequent occurrence.

Several persons, settlers, who were debarred from the use of the Government ditch, have, at great expense, built a ditch above on higher ground than the old ditch. It is on bad ground, and frequently breaks, filling the old Government ditch, and this has caused the waging of three lawsuits between the settlers using the new ditch and those using the old one.

John Madison, the custodian appointed by the honorable Secretary, has never been able to get possession of buildings or any of the improvements. He did attempt to take possession of the ditch, but an injunction suit was commenced against him by Jas. McCann et al. in the Territorial courts, and at the hearing the United States attorney, upon special authority of the Attorney-General, intervened and defended the suit for the custodian, but the court decided against them and issued a perpetual injunction against Custodian Madison. The court held that the United States could not be made a party, and that the suit was in reality between McCann et al. and John Madison, a private individual. The settlers, as they express it, all have their "fighting clothes on," and trouble of a serious character is daily expected.

I recommend that the question of the Government's title to the ditch be considered and if it be held that the Government, in fact, has never abandoned the same and is still possessed of title in the same that suit be immediately instituted for the recovery of possession.

I served written notice upon Asher, Adams, et al., demanding possession of the ditch in the name of the custodian, but was refused, the parties claiming title to the property under location as heretofore stated.

Much of the trouble could have been averted had the custodian been a man of sense and character. He was appointed custodian under an alias, his real name being John Murdock. He is a man of no courage and little judgment, and indiscreet to such a degree that he has failed utterly in every move to secure possession of the property.

I earnestly recommend that the reservation be surveyed and all of the property sold at public sale, so that titles may be settled and the turmoil which now prevails be squelched.

Very respectfully,

S. J. HOLSINGER,

Special Agent, General Land Office.

THE COMMISSIONER OF THE GENERAL LAND OFFICE,

Washington, D. C.

OFFICE OF THE GOVERNOR,
Phoenix, August 11, 1898.

DEAR SIR: Your telegram regarding recommendation of custodian for Camp McDowell, abandoned military reservation, received.

Upon investigating the matter I find that there is considerable friction between the present custodian and trespassers on the reservation as well as bona fide settlers who have settled upon the portions of the reservation thrown open to settlement, and that unless the custodian is supported by Federal officers—United States attorney and marshal—in ejecting trespassers no one can prevent the occupancy by unauthorized persons of the reservation. So far as I am able to learn, there is no property there of sufficient value to the Government to justify a custodian, except the land and irrigating ditch. The buildings have been wrecked, so to speak, by thieves, and windows and all movable portions of the houses taken away, leaving what remains of little value. I learn from reliable sources, however, that the irrigating ditch is valuable to anyone settling on the land under it and that it carries considerable water, and, as I understand, has been reserved by the Government for future use.

I am not familiar with the action taken by your office in regard to appraisement and sale; but my judgment is, if the property has not already been appraised and a sale ordered, that the sooner it is done the better and the land thrown open to settlement, and such disposition made of the irrigating ditch as will best serve the interests of the Government and the people. I suggest that an experienced special agent be sent here to thoroughly investigate and report upon the conditions at the reservation. In that way you will soonest arrive at an intelligent understanding of the situation.

Very respectfully,

N. O. MURPHY, *Governor.*

HON. BINGER HERMANN,
*Commissioner General Land Office,
 Washington, D. C.*

[Department of Justice, office of United States attorney for the Territory of Arizona, Robert E. Morrison, United States attorney; Thomas D. Bennett, assistant United States attorney.]

To J. N. Asher, J. D. Adams, Manuel Guidello, D. Carr, Jas. A. McCann, et al., and whom it may concern:

You are hereby notified to forthwith quit and vacate the premises now occupied by you, being the Old Fort McDowell irrigation ditch and the lands known as the Government farm and garden, used and occupied by the McDowell post garrison and being a portion of the Fort McDowell Military Reservation, on which are located Government improvements, and to yield such possession to the undersigned and to one John Madison, custodian for the United States, or legal proceedings will be instituted for possession of said above-described premises.

S. J. HOLSINGER,
Special Agent General Land Office.

Served by me this 12th day of January, 1900.

S. J. HOLSINGER.

J. H. BAKER, witness.

TERRITORY OF ARIZONA, *County of Maricopa:*

John Madison, being duly sworn, deposes and says:

My post-office is Phoenix, Ariz., and my residence is upon public lands about one-half mile south of the abandoned military post of Fort McDowell. I have resided

upon the abandoned military reservation over four years. In December, 1895, I was appointed custodian of all Government property and improvements on the abandoned military reservation known as Fort McDowell by the honorable Secretary of the Interior. Prior to my appointment as custodian one F. M. McCann claimed to have located a homestead covering the ground upon which the buildings at the post stood upon and the ground known as the post garden and farm. He claimed that the buildings were all his property, and as soon as the reservation was thrown open to settlement he proceeded to tear down the buildings. He tore out windows, took down shutters, removed doors and floors and sold them to citizens in Mesa Township and Phoenix. These facts were duly reported by me to the honorable Commissioner of the General Land Office soon after my appointment.

When I was appointed, F. M. McCann claimed all the buildings and refused to give me possession, which was also duly reported. I was then instructed to give all occupants of Government buildings thirty days' notice in which to vacate the premises. I served said notices, but was again refused possession, the occupants in all cases denying my authority.

After appraisalment company barracks No. 11 was torn down by T. H. Jones, Henry Blue, and Schawver. No. 11 was not sold after appraisalment. The building has been completely looted since being appraised, and there is nothing now remaining except the adobe walls. The building was appraised at \$80.

All that remains unsold of said buildings are Nos. 2, 3, 4, and 5, officers' quarters, and No. 11, company barracks. Nos. 2, 3, 4, and 5, are now in about the same condition as when appraised. These buildings were looted by F. M. McCann of windows, doors, shutters, and floors prior to appraisalment.

I have at numerous times tried to secure possession of said buildings, but at all times have been refused and treated with contempt and insolence.

All of the improvements made by the Government are now in the possession of settlers under squatter's claims. The parade grounds, the target ground, and all other improved lands which by the terms of the act opening the reservation for settlement were reserved from settlement and occupancy are now claimed by squatters who refuse to give possession.

One C. V. Schawver and John Miller have fenced and are cultivating the target-practice grounds. Two families of Mexicans named Sato have possession of officers' quarters Nos. 2, 3, 4, and 5. T. H. Jones occupies grounds upon which was situated the pumping and ice plant. J. N. Asher, J. D. Adams, and Jas. A. McCann and Ramon Plannes occupy the Government garden and farm. These last-named parties, with others, also hold possession of the Government ditch.

JOHN MADISON.

Subscribed and sworn to before me this 12th day of January, 1900.

S. J. HALSINGER, *Special Agent*.

TERRITORY OF ARIZONA, *County of Maricopa:*

John Madison, being duly sworn, deposes and says:

I am the custodian of the Government property and improvements at the Fort McDowell abandoned military reservation. I was appointed custodian in December, 1895. Soon after my appointment I attempted to secure possession of the Government ditch used to irrigate the post garden and farm. I found it in possession of James A. McCann and Manuel Guidillo. Later, J. N. Asher purchased an interest in said ditch and I showed said Asher my appointment and demanded possession of the ditch. I was refused possession. At one time when ordered by the Government to take possession of the ditch I went to the head of the ditch, put in a dam across the ditch in order to turn out the water for the purpose of clearing out and enlarging the flow. J. N. Asher, D. Carr, and Manuel Guidillo came up where I was at work and said that the ditch was not the property of the Government but their own and that I could never have control of it or ever get water through it for land which I occupied. I exhibited my authority and they told me it was not worth the paper it was written on. I found it impossible to secure control of the ditch.

I was unable to secure water to irrigate land upon which I have settled upon, notwithstanding at least half the time water was unused and was flowing through the Government ditch into the river. I tried to buy the waste water, but was refused even the use of such water, and for three years I have been without water for irrigation and I am now unable to support my family from said land by reason of being deprived of the use of said ditch and the water therein. Aaron Gist, H. C. Chappel, W. A. Charlton, and T. H. Jones were all settlers who have tried but failed to secure water from the Government ditch, and have been, with the exception of T. H. Jones, obliged to leave the valley.

The action of said parties in claiming and exercising ownership to said ditch has greatly retarded the settlement of the valley and has been a serious damage to individuals and bona fide settlers. J. N. Asher informed me that they, the assumed proprietors of the ditch, intended to starve all the settlers out of the lower part of the valley.

JOHN MADISON.

Subscribed and sworn to before me this 12th day of January, 1900.

S. J. HALSINGER,
Special Agent, General Land Office.

TERRITORY OF ARIZONA, County of Maricopa:

C. V. Schawver, being first duly sworn, deposes and says:

My post-office address is Phoenix, Ariz., and my residence at the abandoned military post of Fort McDowell. I have resided in Maricopa County, Ariz., for twenty-one years. I am quite familiar with the lands in the abandoned military reservation of Fort McDowell and also with the Government improvements, including what is known as the Government ditch. I am also familiar with the land known as the post garden and farm, which land was used by the post for gardening and farming purposes. I was several times employed at the post and also employed on the post farm. During the year 1885 I leased the post farm from the post commandant. I agreed to keep the ditch in repair and to keep a continual flow of 25 inches of water running to the garden for the use of the farming land. There was then about 12 acres of land in the garden and about 60 acres of cultivated land in the post farm. The river has since washed about 20 acres of the farm away. The Government garden and a part of the Government farm is now occupied and claimed as individual property by J. N. Asher. The remainder of the Government farm is claimed by J. D. Adams and James A. McCann.

The Government used the ditch up to the time of abandonment of the post, which I think was in the fall of 1889. It then lay unused for several years until the reservation was opened for settlement about six years ago. At that time James A. McCann, Neri Osborn, and Manuel Guidillo Ramon Pienni relocated the old Government ditch, and, through promises to various Mexicans of water for irrigation, induced said Mexicans to reopen, repair, and clean out the Government ditch. The ditch was cleaned and was practically the same ditch, and is still used as when operated by the Government. The head gate must of necessity be changed occasionally in order to avoid drift and sand bars. I know that the persons claiming title to said ditch have received benefit from the use of water sufficient to more than recompense them for all labor expended on said ditch. I know that the persons now claiming title to said ditch—J. N. Asher, J. D. Adams, Manuel Guidillo, James A. McCann, and D. Carr—have absolutely refused to allow other settlers to use said ditch of the water flowing therein. I know that during the irrigation season for several years these persons have allowed the water when not in use to run for weeks back in the river. Settlers who would have otherwise settled upon public lands and become useful citizens have been forced to seek homes elsewhere, and others residing here have been unable to raise crops because of the arbitrary action of said persons in claiming exclusive ownership in said ditch.

C. V. SHAWVER.

Sworn to before me January 11, 1900.

S. J. HALSINGER,
Special Agent, General Land Office.

TERRITORY OF ARIZONA, County of Maricopa:

T. H. Jones, being duly sworn, deposes and says:

I have resided in Maricopa County, Ariz., for twenty-four years. My post-office is Phoenix, and my residence near the old military post on the abandoned military reservation of Fort McDowell. I have resided on a squatter's claim on said reserve during the past four years. I am quite familiar with said reservation, and particularly that Government improvement and property known as the Government garden ditch. I worked on said ditch during the time it was used for irrigation purposes by the Government. I have known said ditch for the past twenty years, and am familiar with every feature and detail of the same. I know where the original head gate of said ditch was located, and I know that no material change has been

made in said ditch further than on account of the forming of a bar in the river has necessitated extending the ditch occasionally to the running water in the river. This is no more than is incident to all ditches in Arizona, and the same work was necessary from time to time when the Government was using said ditch. The ditch as used now and known as the old "Government ditch" is identically the same ditch as that used and owned by the military post. The persons now claiming the ditch are J. N. Asher, J. D. Adams, Manuel Guidillo, D. Carr, and James A. McCann. They claim individual and exclusive ownership and have refused to allow other settlers to use water from said ditch. I know that said parties have received benefits from said ditch far in excess of the expense and labor of keeping said ditch in repair. The persons named, by assuming proprietorship of said ditch, have greatly damaged settlers and have prevented the settlement of the lands by bona fide settlers.

I know that the parties claiming title to said ditch have prevented persons, bona fide settlers, from using water when a large head of water was flowing unused into the river. I am familiar with the water supply and know that there is abundant water for all the land occupied by bona fide settlers under the ditch. I also know that J. N. Asher, D. Carr, and Manuel Guidillo lease their lands, thereby securing a share of the crops raised without the expense of keeping up the ditch or making necessary repairs thereon.

T. H. JONES.

Subscribed and sworn to before me this 11th day of January, 1900.

S. J. HALSINGER,
Special Agent General Land Office.

TERRITORY OF ARIZONA, *County of Maricopa:*

In the matter of investigation of property rights at abandoned military post at Fort McDowell.

J. N. Asher, being first duly sworn, deposes and says:

My post-office address is Phoenix, Ariz., and my residence three-quarters of a mile north of Fort McDowell abandoned military post. I have resided on and near the military reservation of Fort McDowell for about thirteen years. I am the head of a family, a citizen of the United States, and a bona fide settler upon public lands in said reservation. I have never exhausted my homestead right, and I now reside upon lands which I intend to file upon as a homestead whenever said lands are surveyed.

During the year 1897 I purchased a squatter's right, including the improvements on land, of Frank Barkley. The land is located on the Verde River north of the military post, now abandoned. It includes a portion of what was known as the "post garden," a small field of cultivated lands. The improvements consisted of about 10 or 15 acres of cleared land and an interest in what is known as the old Government ditch. The "garden" was cleared land, but a portion of the bottom land was used by the post as a pasture, and when abandoned soon grew up to mesquite, and this land has since been cleared and placed under cultivation by myself and other settlers. I now reside upon the land, with my family, and cultivate and raise annual crops upon about 40 or 50 acres.

When I purchased the place, or the squatter's right, there were no improvements except those named. No fences of any value and no buildings. My improvements since made upon said land are reasonably worth \$1,000.

I am familiar with the status of the old Government ditch, which ditch I am now using. In 1895 James A. McCann, Neri Osborn, and others relocated a ditch upon the old Government ditch. At that time the head of the old ditch for a quarter of a mile was washed away. The remainder of the ditch was almost filled the entire length with sand and debris. The work of reopening this ditch was about the same as building a new ditch. The old ditch had not been used for about five years and was grown up with brush and washed out in ravines and filled with sand. My interest in the ditch is that secured by the original locators and from use of the ditch since purchasing my interest and labor annually expended to keep the same in repair. I claim proprietorship of said ditch, with a number of other settlers, under the location referred to, and am now using the same in good faith for irrigation purposes.

One John Murdock claims to be the custodian of the abandoned post. When he first came to this country he gave his name as John Madison, and I understand he was appointed custodian under the name of Madison.

Murdock never at any time demanded possession of the "post garden," occupied by me, or the old Government ditch. Said Murdock did shut the water off from

our ditch in irrigation season. I opened the ditch and turned the water in. I then secured an injunction from the Territorial court restraining Murdock from obstructing the ditch, and that injunction upon due hearing and trial was made perpetual.

J. N. ASHER.

Subscribed and sworn to before me this 11th day of January, 1900.

S. J. HALSINGER,
Special Agent, General Land Office.

TERRITORY OF ARIZONA, *County of Maricopa:*

J. D. Adams, being first duly sworn, says:

My residence is near the Verde River, near the east line of the abandoned military reservation of Fort McDowell. I have resided on and near the reservation for thirteen years.

I have read the foregoing affidavit of J. N. Asher, am familiar with the facts therein stated, and know that said facts as stated are true. I am also a settler upon public lands in said reservation, and hold lands with James McCann, and also own an interest in the old Government ditch under the same title and circumstances and use as that stated by J. N. Asher.

J. D. ADAMS.

Subscribed and sworn to before me this 11th January, 1900.

S. J. HALSINGER,
Special Agent, General Land Office.

TERRITORY OF ARIZONA, *County of Maricopa:*

Manuel Guidillo, being duly sworn, says:

That his post-office is Phoenix, Ariz., and his residence is on the abandoned military reservation of Fort McDowell; that he has resided upon the reservation since 1883; that he is a settler upon unsurveyed lands in said reserve. That affiant is familiar with the ditch known as the Government ditch, which is now used to supply a number of ranches with water for irrigation purposes. That the following settlers are now using water from said ditch and hold interests in and assist in keeping the said ditch in repair: Delos Carr, Manuel Guidillo, Ramon Piannes, J. D. Adams, Jas. A. McCann, and J. N. Asher. That before the post was abandoned, affiant had charge of the Government ditch from about 1885 up to the date of abandoning the post, and is quite familiar with said ditch. That the Government used said ditch from the time it was established up to the date when the troops were withdrawn and the post abandoned; that said ditch was not used after the abandoning of the post until about 1895, when the reservation was thrown open to settlers.

In November, about 1895, affiant Jas. A. McCann, N. Osborn, Ramon Peannes, and affiant commenced the work of reopening the old Government ditch; that they found the ditch filled with sand, and in many places it was impossible to discover where the ditch was originally located; that in places the old ditch was filled to a depth of 4 feet, and that in places the line of ditch was changed and at the head water was diverted almost a half mile below the original headgate. This was necessary on account of a change in the channel of the river. Since the location was made and recorded in the records of Maricopa County, affiant has acted in the capacity ofzanjero. During the time the ditch has been opened under the last location it has required a great amount of labor to keep the ditch in repair.

Affiant is acquainted with John Murdock, alias Madison; that said Murdock never at any time demanded possession of said ditch, nor did he demand water for irrigation purposes. Affiant at no time received orders from any of the settlers to refuse said Murdock water for irrigation purposes.

MANUEL (his x mark) GUIDILLO.

Attest:

J. D. ADAMS.

Subscribed and sworn to before me this 11th day of January, 1900.

S. J. HALSINGER,
Special Agent, General Land Office.

TERRITORY OF ARIZONA, *County of Maricopa:*

Delos Carr, being first duly sworn, deposes and says:

That his post-office address is Phoenix, Ariz., and that he resides upon public lands on the abandoned military reservation of Fort McDowell. I am occupying a tract of land on the west side of the Verde River, 2 miles above the old military post. I have never exhausted my homestead right, and I occupy and have improved said land and intend to file upon the same whenever the land is surveyed. I purchased the improvements and squatter's claim of Delores Girdillo. The improvements consisted of 20 acres of cleared land under cultivation, an adobe house, and an interest in the irrigation ditch.

I settled in the valley at the instance and through the influence of John Murdock, who represented to me that he was the custodian of the Government property in the McDowell Reservation. I came to the reservation with Mr. Murdock two years ago last October. He then offered to sell me his claim on the reservation, and to assure me of the certainty of water then exhibited to me letters from the Interior Department and informed me that he would soon secure control of the old Government ditch. At that time he stated that there would never have been any trouble over the ditch if McCann and others had not prevented him from using water. The following year, after I had purchased my property, Murdock shut off the water by filling the ditch with earth. It was my turn to irrigate when he put a dam across the ditch. In conversation then with Murdock he told me he was willing to compromise and allow the general use of the ditch if they would let him have water, but if they (McCann and others) did not let him have water he would take possession, and that he did not know how to secure possession in any other way except by turning the water out and away from consumers.

Each year I have, with others, spent a great deal of time cleaning out and repairing the ditch. It has averaged about forty days per year per man.

DELOS CARR.

Subscribed and sworn to before me, January 11, 1900.

S. J. HALSINGER,
Special Agent.

TERRITORY OF ARIZONA, *County of Maricopa:*

Manuel Guidillo, being first duly sworn, deposes and says:

I have resided at Fort McDowell since 1883, and am quite familiar with the land known as the "Post garden and farm" now occupied as a homestead claim by J. N. Asher. I know that after the troops were withdrawn from the post the land was not used for several years, and that portion of the farm north of the post garden soon grew up to mesquite. When the reservation was thrown open for settlement, F. M. McCann settled upon the land. Prior to that time E. P. S. Andrews was custodian of the Government post, and he employed me to clear a portion of the lands which had previously been cleared by the Government. Later, after McCann located the land, it was grubbed and put in cultivation. The improvement of the land has continued from year to year under various settlers, and J. N. Asher the present occupant has increased the cultivated area of the land.

The land by reason of the improvements—the ditches and cleared land—has greatly increased in value since the reservation was thrown open for settlement.

MANUEL (his x mark) GUIDILLO.

Attest:

J. D. ADAMS.

Subscribed and sworn to before me this 12th day of January, 1900.

S. J. HALSINGER,
Special Agent, General Land Office.

CAMP VERDE, ARIZ., *October 5, 1900.*

SIR: On September 25 I made a report of the condition of the San Carlos Agency. While making the examination I requested permission to visit Camp Verde to inquire into the condition of the renegade Indians from San Carlos. In regard to how these Indians came there and the object of my visit, that a familiar understanding of the facts connected with their separation from the agency, I would respectfully refer you to said report.

On September 26, in company with W. O. Tuttle, farmer of the San Carlos Agency, I proceeded to Camp Verde. While at Phoenix I learned that a large number were on the Verde River, south of Camp Verde, at a place called Fort McDowell, the distance between the two places being about 50 miles. These Indians were also a part of the renegade Indians from San Carlos. We went to Fort McDowell and found 10 men, 8 women, and 10 children, making a total of 28 in all, living in brush houses, or tepees, on the desert. These were Mohaves. They came here during the month of December, 1899, making the journey from San Carlos in thirteen days. While on the way they lost a large number of their horses from eating what is called the loco weed, and abandoned their wagons. They came to that place without any prospect of work or obtaining any land—vagabonds on the desert.

Around Camp Verde we found about 225 Mohave Apaches, who came over at different times from April 29, 1899, under permission of Agent Nicholson, to live there and in some cases to remain indefinitely. I did not visit several other camps where there is said to be a few settled. Mike Burns, an educated Indian, who acted as interpreter, informed me that there were 35 Tonto Apaches on the head of Beaver Creek, and that there were a few to be found at Congress, Black Canyon, Au Frero, Bumblebee, and Pleasant Valley. Nearly all the Mohaves are off of the reservation and comprise the parties at Fort McDowell and Camp Verde, to which I have made particular reference, and refer to in this report as visited by myself.

During the winter of 1900 they subsisted on some things they brought over with them. Early in the spring they obtained some work clearing mesquite lands for the whites and doing other work for them, for which they received enough to eke out an existence. They also had given them from some whites additional subsistence. They cultivated very small tracts of land loaned to them for the purpose of raising something for the season. At one time on the northern part of the military reservation at Camp McDowell they attempted to dig out a ditch for the purpose of irrigating some high lands. It was a failure. They have obtained a small credit at the stores, the owners of which are kind to them. At present the inclement season is upon them; they have nothing to look forward to in the way of subsistence or protection against the severe weather, and it is a serious question in regard to what will become of them. They were not able to raise sufficient for a winter's supply. I visited their camps several times; went into their tepees for the purpose of learning what they had in the way of subsistence and clothing. In the mornings their breakfast consisted of a scant supply of "tortillos;" their dinner consisted of a scant supply of watermelons, and their supper of the same.

Small hemispherical tepees are made from wattles. On some of them I found small pieces of canvas stretched, covering about one-fourth of the ground floor of the tepee. This has served to keep out the sun and the few light rains in the summer time, but they are totally worthless for winters, which in the Verde Valley are said to be often quite severe. The prospect of these people for work by which they avail to support themselves through the winter is very poor. The people who have settled around this military reservation are comparatively new settlers, consisting of Mexicans and very poor whites. The land is not rich, excepting along close to the river. The margin

of cultivatable lands along the river is very small and is all taken up. There is not a foot of public land there that can be obtained for them. These settlers, being poor, fear that they will be a support on them. With the exception of some cowboys and Mexicans they are well treated. The petitions that were sent to the Department requesting their removal and complaining of their conduct must be taken "*cum grano salis*," and is confined more particularly to the interest of those people who desired to obtain the reserved lands of the military reservation and have feared that they might be, through humanity, compelled to support them.

Mr. Miller, the storekeeper at Fort McDowell, is kindly disposed toward them, and, although he wrote to the Department, seems to have changed his opinion in regard to them.

It has been represented that they have committed some depredations, killing cattle, etc. Not a single statement was made to substantiate such. They have been as peaceable as their natures are; they are cheerful and comparatively happy, and, above all, show a great dislike to be returned to the agency. They say they will suffer almost anything rather than go back there. I sent Mr. Tuttle ahead of me one day (while I was inquiring into some matters at the Phoenix School) to gather them in. They refused to meet me until assured by Mr. Tuttle that I did not intend to force them to return to the agency. When they found that I was not there for that purpose, but for the purpose of advising and talking to them, they were like children and came around and begged of me to secure them lands, no difference how small the amount. I asked them if they had sufficient to eat. They assured me they had (which is not true). They claim that the lands at San Carlos were without water; that they had always had a hard life there and have been dissatisfied. They claim that the Verde River was their original home; that they were seduced to go to San Carlos under false promise by the military authorities; that they were promised that the Verde region would be reserved for them, and that they would return some day. They say that they do not want to go back because they desire to work for themselves if the Government would only give them a chance; that they will support themselves if they can obtain a small amount of land.

HOW THEY CAME TO FORT M'DOWELL.

Nearly all these parties held passes from Agent Nicholson (see my report, September 25). They came in good faith, without any knowledge that they were violating the law, and suppose now that they are there with the permission of the Government.

WHAT SHALL BE DONE WITH THEM.

What shall be done with these Indians is a question that may be answered differently, as may be viewed. From the policy of the Department it was wrong for the agent and violation of his trust to permit them to leave the reservation. According to the policy of the Government Executive orders, etc., they should be returned there.

On the other hand they are now off from the reservation, 250 miles away from it, and it will cost the Government much time and expense, amounting to several thousand dollars, to undertake to return them.

It is believed that a great many of them would flee to the mountains on the first move to force them back to the reservation.

It would take a large force to gather them together. A few, or quite a number, would return, perhaps, upon request of the agent if they were able, but to travel 250 miles without any provisions or transportation when the weather is quite severe would be a great hardship.

There is another feature of this question. These Indians are very honest in their desire to support themselves. Their great desire is to live on or near the Verde; that they would rather be anywhere than on the San Carlos Reservation. They are peaceable, industrious, and hard workers. Their appeal to me to secure them homes, and not to drive them back to San Carlos, was quite pathetic.

REMARKS.

The general statement of the people outside of the Verde River is favorable to the Indians remaining there if the Government can possibly secure them some lands or they can procure work. I find no ill feeling as represented. Governor Murphy has warned all persons not to interfere with them, and generally they have the sympathies of all well-meaning people. The Verde River contains a large supply of water, but practically it is all taken up, and any attempt, at Camp Verde or any other point, to diminish the supply of water, or the furnishing of irrigation for new lands, most likely would be contested. In fact, there is a scarcity in the lower part, toward Phoenix, of water. I receive this information from the attorney-general and several other parties. There is an opportunity to obtain 200 or 300 acres of land at Camp McDowell now irrigated by the old military ditch. This is part of the old military reservation.

At the time that Camp McDowell was abandoned the land on which is located the buildings, including the parade grounds, the gardens, the water, and all improvements, were reserved, perhaps, for future sale, or other disposal of it. This land has never yet been disposed of, nor has it been subjected to entry. It has forcibly been taken possession of by some Mexicans and white men, some of which do not live upon it, and there is now a question of ejectment before the United States attorney for the Territory, and, in fact, the matter has been before the court in some form or another. This land could be set aside by proper process for the use of these Indians, but it would not support exceeding 150. After considering the matter and conferring with a large number of persons, including United States officials, I recommend that all this land be set aside for them by proper course. I do not know whether it can be done by Executive order or not; if so, it would be much better. If the honorable Secretary should be disposed to look favorably upon this proposition, I would recommend those now living there be first considered; second, those who came to the Verde Valley under permit of Agent Nicholson under date of April 29, 1899, be also assigned there; that the number located there, including men, women, and children, not exceed 150.

There is at Camp Verde, near the fort and northwest a short distance—about 1 mile—a tract of land consisting of small farms that were taken up by citizens who have practically abandoned them from the fact that they were not able to complete a ditch for the purpose of irrigation.

In my opinion a ditch could be constructed there with Indian labor that would cost the Government about \$1,000. I understand that the parties owning this land would be willing to sell it at a reasonable figure. It is regarded as desert land, and undoubtedly the cost would be the small improvements they have there. Two hundred and fifty acres of this land, if watered, might serve for the remaining Indians there.

In regard to the purchase of this land, it would require a special agent, who would spend some time to determine whether it was feasible to obtain water for the land and construct a ditch for their use.

I offer the above to be considered by the honorable Secretary, and I would recommend his sincere consideration of the matter under the conditions that exist.

The two propositions submitted above are, first, that they be forced peaceably back to the reservation, or, second, that some provision be made for maintaining them there.

Of the two propositions, I think humanity dictates the last, and the first only to be resorted to as a necessity arising from starvation or the utter inability of these people to maintain themselves.

That they will not be able to sustain themselves in their present condition I am certain.

Their present needs as long as the weather is pleasant are not pressing them, but I feel confident that when the severe winter sets in there will be great suffering and sickness among these people.

I would recommend, in view of this, that they be supplied with sufficient canvas for the purpose of making tepees that will keep them warm during the winter and that this be supplied immediately. There are probably about fifty families. I would estimate that it would take about 250 yards of 60-inch ducking for this purpose. Ducking of this width and 10 ounces to the square foot can be purchased at Phoenix for about 40 cents—allowing for the delivery of the same about \$25—amounting to a total of about \$125.

Very respectfully,

A. J. DUNCAN, *Inspector.*

The SECRETARY OF THE INTERIOR,
Washington, D. C.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, November 21, 1900.

SIR: This office has the honor to acknowledge receipt, by Department reference of the 8th instant, for report and recommendation, of a communication dated October 5 last, from United States Indian Inspector A. J. Duncan reporting upon the condition of certain Mohave Apache Indians belonging to the San Carlos Agency, Ariz., who are now living in the Verde Valley and upon the Camp McDowell abandoned military reservation, Arizona.

The inspector states in effect that there are about fifty families of these Indians living along the Verde River and Valley and at the said abandoned camp, who are in destitute circumstances, with no apparent means of subsistence or protection from the cold during the coming winter; that to return them to the San Carlos Reservation would

entail considerable expense to the Government, and besides be a very difficult undertaking, as the Indians claim this region as their old home, and say that they would do anything rather than return to San Carlos, and would no doubt scatter to the mountains should an attempt be made to arrest and return them; that there is available land at the said abandoned camp which could be given them as a home; that they are honest in their desire to earn their own living and have appealed in a pathetic manner to have land given them at this place. He adds that those Indians—about 350 in number—were given passes at various times by the acting agent, Captain Nicholson, United States Army, to go to the said places; that from the policy of this Department it was wrong for him, and in violation of his trust as acting agent, to permit them to go; that those at Camp McDowell subsisted during the winter of 1900 on some things they brought over with them and have since been able by working for the whites to eke out a mere existence; that they also cultivated small tracts of land loaned to them for the purpose of raising something, but at present the inclement season is upon them, and they have nothing to look forward to in the way of subsistence, and it is a serious question what will become of them.

That at one time they attempted to dig out a ditch for the purpose of irrigating some high lands on the northern part of the abandoned military reservation, but it was a failure; that the people who have settled around this military reservation are comparatively new settlers, consisting of Mexicans and very poor whites; that the land on the reservation is not rich, excepting along the river, which marginal land is all taken; that, with the exception of some cowboys and Mexicans, the Indians are well treated; that the petitions sent to this Department requesting their removal and complaining of their conduct must be taken "*cum grano salis*," as it is to the interest of these Mexicans and whites to obtain the reserve lands of the abandoned military reservation for themselves; that Mr. Miller, the storekeeper at the camp, is kindly disposed toward the Indians and seems to have changed his mind concerning them, he having previously complained to the Department; that it is represented that these Indians have committed depredations on the cattle, etc., but not a single statement was made to substantiate this charge; that they have been peaceable and are cheerful and comparatively happy, and will suffer anything rather than go back to San Carlos, which they claim is without water and where they have always had a hard life; that they are industrious and hard workers, and say they will support themselves where they are if the Government will only give them a chance, and that the dictates of humanity would require that they be not forced back to San Carlos unless their starvation should cause such action.

As to the status of the land on the abandoned military reservation, he reports that there is an opportunity to obtain 200 or 300 acres which is irrigated by the old military ditch at this place; that at the time Camp McDowell was abandoned the land on which is located the buildings, including the parade ground, the gardens, the water, and all improvements, was reserved for future sale; that this land has not yet been disposed of nor subjected to entry, but has forcibly been taken possession of by some Mexicans and whites, and there is now a question of ejectment before the United States attorney for the Territory; that this land could be set aside for the use of these Indians, and that it would support not exceeding 150.

He therefore recommends that the Indians at Camp McDowell be allowed to stay there and that the land indicated on the same be reserved to them by Executive order or otherwise, and that, in addition, they be provided with tents to shelter them during the winter, as they are entirely destitute and have nothing but rude tepees made from wattles as a protection against the cold, which is reported to be severe in this region in the winter time. As he states that 50 families will need tents, he includes, evidently, the Indians living in the Verde Valley and along the Verde River.

In reply I have to state that on September 13 last Hon. N. O. Murphy, governor of Arizona Territory, transmitted a copy of a letter written by him on behalf of certain Mohave Indians belonging to the San Carlos Agency, who were living on the said abandoned military reservation in Arizona, warning the whites there that the Indians must not be disturbed nor molested in any unlawful manner, pending an investigation in the premises. Governor Murphy stated that the Indians had complained to him about being maltreated by the whites, who were trying to drive them away; that in his opinion, these Indians should not be allowed to go so far away from their agency and occupy the lands at this abandoned post unless this Department specifically provide therefor. In view of this report from Governor Murphy Capt. W. J. Nicholson, U. S. A., acting Indian agent, San Carlos Agency, was requested to give the office the benefit of his views in the premises, and under date of the 3d ultimo he replied to the effect that the Indians located at old Camp McDowell belong to the best element; that they have always been industrious and desired to go out among the whites to make their own living; that, appreciating their situation, he gave them passes to go to their old home in the Verde Valley and at Camp McDowell for the purpose of making a living, etc., and that as this abandoned military reservation is to be thrown open to public settlement at an early day he recommends that the Department take steps to locate them on some of this land.

The status of Camp McDowell is given in the annual report of the General Land Office for 1899 as follows:

Camp McDowell, situated in Maricopa County, townships 3, 4, and 5 north, ranges 6 and 7 east. Established by Executive order of April 12, 1887. Relinquished February 14, 1891. On September 16, 1890, the War Department reported that there were 30 buildings and other improvements on the reservation. Not surveyed. Subject to disposal under act of August 23, 1894 (28 Stat. L., 491). Buildings offered for sale September 22, 1896, and 12 sold. Unsold buildings subject to private sale.

The said act of August 23, 1894, provides in section 1 as follows:

That all lands not already disposed of included within the limits of any abandoned military reservation heretofore placed under the control of the Secretary of the Interior for disposition under the act approved July fifth, eighteen hundred and eighty-four, the disposal of which has not been provided for by a subsequent act of Congress, where the area exceeds five thousand acres, except such legal subdivisions as have Government improvements thereon, and except also such other parts as are now or may be served for some public use, are hereby opened to settlement under the public-land laws of the United States, and a preference right of entry for a period of six months from the date of this act shall be given all bona fide settlers who are qualified to enter under the homestead law, and have made improvements, and are now residing upon any agricultural lands in said reservations, and for a period of six months from the date of settlement when that shall occur after the date of this act.

Upon informal inquiry at the General Land Office, it is learned that the public survey of this reservation has been about completed, though the returns of such survey have not as yet been sent in; that one John

Madison was appointed custodian of the reservation by this Department on December 11, 1895, but from the date of his appointment up to the present time has not been able to secure possession of the Government improvements on the reservation, as the trespassing whites have prevented him, and that some correspondence has been had by the Commissioner of the General Land Office with the Department looking to dispossessing the said trespassers of the improvements and lands they are unlawfully occupying. It is learned further that a special agent (S. J. Holsinger) of the General Land Office made a report February 1, 1900, on the status of the reservation. In this report he states as follows:

* * * The buildings unsold are * * * company barracks No. 11, company quarters (officers') Nos. 2, 3, 4, and 5.

No. 11 is entirely dismantled, nothing now remaining except the adobe walls.

My information is that F. M. McCann removed the doors, shutters, and windows from this building, and T. H. Jones and Henry Blue tore down the roof, framework, and all other wood material and appropriated the same to their own use.

F. M. McCann resides on Carr Creek, and T. H. Jones and Henry Blue reside upon the reservation (McDowell).

Officers' quarters Nos. 2, 3, 4, and 5 were partially dismantled by F. M. McCann, who removed doors, windows, shutters, and floors. The buildings yet retain roof and framework, and are occupied by nomadic Mexicans.

The only other improvements yet not disposed of are the old Government ditch, the Government farm and garden, the parade grounds, the target-practice grounds, and the post grounds proper.

* * * * *

I found that all the improvements made by the Government are now in the possession and claimed as individual property by squatters. John Miller and C. V. Schauer (latter lately deceased) occupy and have fenced and cultivated the cavalry parade and target-practice grounds. J. N. Asher and J. D. Adams occupy and have cultivated for several years the Government farm and garden.

J. N. Asher, J. D. Adams, James McCann, Raman Piannes, et al. have possession of the old Government ditch, and hold and use it to the exclusion of all other settlers upon the reservation (numbering some six or eight). * * *

The Government ditch, formerly used to irrigate the Government farm and garden and to supply water for the post stock, was used up to the date of abandoning the military post, 1891. It was not used for three or four years thereafter, and as it crosses a country full of washes said ditch soon filled with silt, and the head gate was washed away and a large bar formed at the head of the ditch.

In 1895 James McCann, Neri Osborn, et al. posted notices locating upon the old Government ditch a subsequent water right, and after duly recording said notice in the county records of Maricopa County proceeded to reopen said ditch.

I made a careful examination of said ditch, and am satisfied that the present ditch held by James McCann et al. is practically the same ditch constructed by the Government. No material change has been made. The head of the ditch, or "intake," has been extended through a sand bar which has formed in the old bed of the river, but this is incident to any ditch. * * *

The said act of August 23, 1894, specifically provides that all of this reservation, which contains an area approximately of 25,000 acres, is opened to public settlement, "except such legal subdivisions as have Government improvements thereon, and except also such other parts as are now or may be reserved for some public use."

The correspondence and papers, including an official map from the War Department, on file in the General Land Office show that the Government improvements at this abandoned military post consist of (1) the immediate site of the old camp, which contains a good artesian well; (2) the post garden; (3) the United States Government farm; (4) the lands lying north of the old camp and embracing or containing the old Government irrigating ditch, and (5) the target-practice grounds. It is also learned at the General Land Office that such buildings as have

been sold have been so disposed of upon the condition that they be removed by the purchasers, and that they have not as yet been removed. The lands upon which they stand are reserved from settlement by the provisions of the act above quoted.

This office approves of the plan of settling these Indians upon this abandoned military reservation; and, though the inspector, states that there are but 28 Indians now living at Camp McDowell, and that there are 225 at Camp Verde, with possibly 50 more scattered along the Verde Valley at different points. It is thought that should land be secured at Camp McDowell, many of the Indians at Camp Verde and at other places will come to this abandoned camp for the purpose of getting homes. It is therefore not thought necessary that an effort should be made to purchase lands and improvements along the Verde River and near Camp Verde for the purpose of settling the Indians thereon, as suggested by Inspector Duncan.

It has been held (17 Op. Atty. Genl., 258) that the power of the President "is broad enough to cover a reservation of public lands for Indian purposes, which is a measure in the public interest and for the public use." The above-quoted act places this reservation under the control of the Secretary of the Interior for certain disposal, but excepts from such disposal such parts "as may be reserved for some public use."

It would seem from the information before the office that the only available lands on the reservation, and which have not been and can not be lawfully settled upon, are the tracts embraced in the Government improvements enumerated above; and in view of the facts in the case, and the favorable recommendation of both Captain Nicholson and Inspector Duncan, I have earnestly to recommend, should you approve of the same, that you issue an order withdrawing from disposal such tracts of land at the Camp McDowell abandoned military reservation, Arizona, as contain Government improvements (stated above), and reserving the same for the exclusive use of such Indians as the Secretary of the Interior may see fit to locate thereon. Such reservation to be made under the authority providing therefor in the act of Congress approved August 23, 1894 (28 Stats., 491).

It is further recommended that simultaneously with the issuance of this order reserving the said lands the Department take such steps as may be deemed necessary to dispossess such persons as are unlawfully holding and occupying the lands and improvements above referred to, as recommended in letter from the Commissioner of the General Land Office to the Department dated October 3, 1898.

In this connection I desire to add that the region—Verde Valley—to which these Mohave Apaches have returned is their old home; that they have been dissatisfied ever since they were forcibly taken thence by General Crook to San Carlos; that the criticism of the inspector that Captain Nicholson violated his trust as agent in permitting them to leave the reservation and return to their former home is not fair to him, as he (Nicholson) acted entirely within his province and as the dictates of humanity would require, and that this office thinks it but tardy justice that these Indians should be allowed to remain where they are and be given homes at Camp McDowell.

The matter of furnishing about 50 families of Indians with tents to prevent them from suffering from cold during the coming winter will be the subject of another report to you.

The papers in the case are inclosed herewith, with request that this office be advised of any action taken in the premises.

Very respectfully, your obedient servant,

W. A. JONES,
Commissioner.

The SECRETARY OF THE INTERIOR.

PHOENIX, ARIZ., *December 13, 1900.*

SIR: On February 10, 1900, upon the request of Hon. O. N. Murphy, governor of Arizona, and by your order, I submitted my special report concerning depredations upon Government property at the abandoned military post of Camp McDowell and in relation to the occupancy by settlers of the old Government ditch and gardens.

Since that time frequent complaints have been made to me from McDowell, and I have been urged by different factions to take steps to dispossess the persons claiming proprietorship in the old ditch. Complaints of unlawful inclosure have been made by J. W. Miller, T. Jones, et al.

Recently the surveyor-general for Arizona let a contract for the surveying of the reservation. This has been the signal for a general rush to that district, and renewed complaints have come in of unlawful inclosure, timber depredations, and claim jumping.

On Saturday, December 1, one J. W. Miller, the postmaster at McDowell, called upon me and informed me that some 25 white men and Mexicans had organized a vigilance committee for the purpose of dispossessing by force certain settlers who were obnoxious to them. He urged that I proceed at once to McDowell, as nothing but prompt action would avert bloodshed.

I accordingly proceeded to McDowell on Monday, December 3, accompanied with J. H. Baker as guide, he being thoroughly familiar with the district and the settlers.

I found all the settlers carrying arms and threats of violence rife. On Monday evening I attended a meeting of the so-called vigilantes. All of the members denied any intention of unlawful acts, but admitted that as they were not able to employ lawyers they proposed to take the law to a certain extent into their own hands. I tried to give them good advice, and received their promise to go no further with their organization than to agree to financially assist each other in case of contests upon their claims.

I am frank to say, however, that I never met a set of men who are so determined upon having trouble than the McDowell people. During the four days which I spent there it was not an unusual sight to see a settler plowing in the field with a Winchester strapped to the plow, or a hired man carrying a shotgun after him as a bodyguard. I found two unlawful inclosures, which I will report under separate cover.

The alleged timber-trespass cases were embodied in a few settlers cutting mesquite wood, which in every case was being done to make some improvement to hold land. Mexicans and white settlers were camped all along the Verde River for 10 miles upon the lands which are being surveyed. There is no possible chance of getting water upon one-fifth of the land now occupied. In fact, the only right to

water which is a prior one to the Arizona canal is the old Government ditch, which does not cover over 600 acres of land. Four other ditches have recently been opened, two on either side of the river, but all are unlawful appropriators of water and are sure to be enjoined.

Indications lead me to believe that nearly all of the recent settlements have been made purely for speculative purposes, as no substantial improvements are being made. Tents, instead of houses, are the rule, and in half the cases a wagon. A shotgun or Winchester and a camp fire comprise the only improvements which are made the basis for a claim to 160 acres of land. No timber of any consequence has been cut by these last-named settlers. Most, if not all, of the timber cut, as far as I could ascertain, was cut by bona fide settlers in clearing land for agricultural purposes.

The lands where water is available and where water has been used are situate north of the old post or on the northern half of the reservation. The recent settlements have been almost wholly made upon the south half of the reservation, and these lands are wholly within what is known as the McDowell reservoir site.

Upon my return to Phoenix, Ariz., I was waited on by Messrs. Ford, Evans, and Hall, members of the water-storage committee, who desired information as to the extent to which settlement was being made upon the proposed reservoir site. They stated that for some time it had been generally known that the committee had in view this site and that the settlements were unquestionably made for the purpose of speculating at their expense if not that of the Government. They earnestly requested me to use my best efforts to secure the withdrawal of the southern portion of the reserve from settlement.

Doubtless these gentlemen have already interceded with you in this matter, and I am impressed with the necessity of an immediate withdrawal of all lands south from a line east and west one-half mile south of the central or military plaza of the post. I am informed by the committee referred to that a survey of the site left the high-water line one-half mile south of the old post. As the post grounds contain valuable agricultural lands which are partially under the Government ditch, these might properly be settled upon. In fact, all have occupants.

However, on account of the attitude of the settlers, who insist upon proprietorship in the Government ditch and the lands covered by it, which are reserved as Government improvements under the act by which the reservation was abandoned, I would recommend that all of the lands be immediately withdrawn from settlement until such time as a careful investigation can be made and recommendations submitted as to the disposition to be made of the reservation.

Personally, I would favor making a small Indian reservation of the lands not needed for a reservoir.

There are now on the reservation 37 Mojave Apache Indians. These Indians are thoroughly civilized and are hard-working, honest people. They were ordered by Captain Nicholson, Indian agent at San Carlos, Ariz., to take possession of the old Government farm and garden. They found it occupied by white and Mexican settlers, who refused to allow them to till or occupy any portion of the land, and so they have lived upon the meager crumbs which have fallen from the table of these trespassers.

During the past two years they have been these trespassers' slaves,

and they have applied to me and to the governor of Arizona with tears streaming down their cheeks for protection and some small piece of land they could call their own. When it was known that the reservation would be surveyed, I wrote to these Indians advising them to select land and settle upon it, and assured them protection. But during my last visit at Camp McDowell I found them occupying a worthless, rocky mesa, and to my inquiries as to why they had not settled upon agricultural lands, they replied that both whites and Mexicans had threatened them if they took land, and that, as they did not want trouble, they were waiting for the Government to put them in possession. Alas, when the waters were troubled, these poor, simple-minded children found no place for them in the pool.

Without a single exception every settler of whom I made inquiry—and I made many—admitted that the Indians were honest and industrious, but they were not wanted. They preferred Mexicans.

One rancher informed me that he had offered them cattle accidentally killed in a round-up, but they refused to accept the gift, though in great need, saying that if they ate beef “white men would see the bones and say bad Apache—steal our cattle.”

Something should be done for these Indians. They dread the very name of San Carlos and declare that they would prefer to live poverty stricken, as they now are, rather than return to the White Mountain Reservation. The north half of McDowell Reservation would make an ideal Indian reservation. It is true there are eight or ten bona fide settlers, but they are almost all occupying reserved lands and have been remunerated time and time again for all improvements made by them.

I earnestly recommend that the lands be withdrawn from settlement and that the advisability of creating an Indian reservation of such portions not available for reservoir purposes be considered.

Very respectfully,

S. J. HOLSINGER,

Special Agent, General Land Office.

The COMMISSIONER OF THE GENERAL LAND OFFICE,

Washington, D. C.

PRESCOTT, ARIZ., *May 8, 1891.*

SIR: In accordance with instructions contained in office letter dated April 21, 1891, I proceeded to Fort McDowell, and arrived there Monday, May 4, 1891, at 1 o'clock p. m. I found the buildings in fully as bad a condition as described by Mr. W. Rich, superintendent of Indian schools at Phoenix, in his letter dated March 24, 1891, a copy of which you sent to me. The buildings of this fort are all built of adobe, which do not make a very durable structure, and when not properly kept in repair very soon crumble into decay. The rear walls of the officers' quarters, in most places, are a mere pile of crumbling earth. One of the long buildings used as a barracks is no longer fit for a human habitation. The buildings used by the commissary, the guardhouse, and the schoolhouse are badly demoralized. In fact, the only buildings that are in fairly good condition are one long building used as a barracks, the buildings used as hospitals, the bakery, and one dwelling house. The adobe chimneys are almost entirely removed.

This allows the rain to enter the buildings and to dissolve the walls. The result is that the walls are cracked and broken and in many places a mere pile of crumbling earth.

In addition to all this the floors are badly worn, the windows more or less broken, and the doors shattered. There are two adobe corrals or inclosures, of which the walls are badly dissolved as the result of the action of the elements. In each of these corrals is a long shed or open stable about 150 feet long, and built mostly of redwood. These sheds are well built, and are in very good conditions. I forgot to say that those buildings spoken of above as being in fairly good condition have brick chimneys, while all the others have adobe.

I did not make a full exploration of this part of the Rio Verde for the reason that all human efforts to control a mountain stream the size of this have heretofore failed.

I judge that the bed of this stream is 400 yards wide. At low water the channel is sometimes in one part and sometimes in another of this bed. Formerly the channel ran close to the pumping station and very convenient to the suction pipe. Now the channel is removed about 100 yards, and the old channel is filled with sand and gravel to the depth of about 5 feet. No other damage to the water system of the fort is done that I could discover. The dams that were built to divert the water of the Rio Verde into the irrigating canals or ditches are all gone, and the changes in the bed of the stream are such as to require a large expenditure of money to get the water into the old ditches. In fact the cost would far exceed the value of the land when reclaimed. The buildings of the fort are arranged in the form of a right angled quadrilateral, and are surrounded by a very substantial post-and-wire fence with a 2 by 6 inch hard-pine scantling spiked down on the top. The posts are redwood, sawed 6 by 6 inch square and 7 feet long. These posts are placed 10 feet apart. There are in this fence 379 posts. Thirty rods to the north of the fort is another inclosure, the fence being similar to the one described above. In this fence there are 77 posts. Still farther north, about 80 rods, is another inclosure containing 189 posts. These fences are very substantial and in excellent repair, and are all similarly constructed.

The piping of the water system being under ground, I was unable to make any examination without expending considerable money, more so probably than the information would be worth. In the matter of the proposed removal of the fences and those stables or open sheds, I will say that these are valuable improvements on the land—just such as are required on a ranch or stock farm. To take them down and remove them to the Indian school farm near Phoenix would cost very near as much as they would be worth; still it might be wisdom to remove these improvements if there are no probabilities of their being required where they are now. One thing is certain, that the realty of Fort McDowell will not be as valuable if those improvements are removed.

In the matter of parts of buildings going into decay, I can see no objections to removing such parts as may be of value in the construction of the Indian school near Phoenix, or for any other purpose, as they are of no value where they are now.

In the matter of Rio Verde washing away some of the soil belonging to this fort, I consider it to be of very small importance. This condition has existed for some time and will continue to exist. Land in this wilderness is very cheap. I will say, further, that the impressions

formed on my mind concerning this old fort are not very flattering. It is located in a mountainous region. Nearly all of this military tract is also mountainous. The means of access is over a rough and rugged road for over 10 miles, another 10 or 15 of a sandy desert; the distance to Phoenix, the nearest shipping point, being 35 miles. The nearest inhabitant is 20 miles away. The total amount of this military tract that can be utilized for stock purposes will not exceed 300 or 400 acres.

I have taken no steps to protect any of the realty of this old fort, preferring to await further orders.

Yours, respectfully,

JOSEPH CHELLEW,
Special Agent, General Land Office.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
Washington, September 5, 1901.

SIR: It is represented that a party of Mohave Apaches from the San Carlos Indian Agency have gone to and are living upon lands of Camp McDowell abandoned military reservation, Ariz., which it is understood they claim to be their old home.

I will thank you to report at your earliest convenience the status of these lands, whether they have been surveyed, their extent, at least such portion thereof as is unoccupied and "may be reserved for some public use," under the provisions of the act of August 23, 1894 (28 Stats., 491), relating to the opening to settlement of abandoned military reservations, and whether there are any reasons known to your office why all or a portion of said lands may not be reserved and the Indians referred to located thereon, as well as any other information in the possession of your office that may enable the Department to reach a conclusion in the matter.

If your office has any information upon the subject of irrigation for these lands I shall be glad to be advised thereof.

Very respectfully,

THOS. RYAN, *Acting Secretary.*

The COMMISSIONER OF THE GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., September 14, 1901.

SIR: I am in receipt of departmental letter of September 5, 1901, stating that it is represented that a party of Mohave Apaches from the San Carlos Indian Agency have gone to and are living upon lands of Camp McDowell abandoned military reservation, Ariz., which it is understood they claim to be their old home.

A report is called for as to the status of these lands, whether they have been surveyed, their extent, at least such portion thereof as is unoccupied and "may be reserved for some public use," under the provisions of the act of August 23, 1894 (28 Stats., 491), relating to the opening to settlement of abandoned military reservations, and whether

there are any reasons known to this office why all or a portion of said lands may not be reserved and the Indians referred to located thereon, as well as any other information in the possession of this office that may enable the Department to reach a conclusion in the matter; also any information this office has upon the subject of the irrigation of these lands.

In reply I have the honor to report that this reservation was established by Executive order of April 12, 1867, and is situated in Maricopa County, approximately in townships 3, 4, and 5, ranges 6 and 7 east, Arizona.

Said reservation was transferred to this Department February 14, 1891, for disposal under the act of July 5, 1884 (23 Stat., 103). There were thirty buildings transferred with the reservation.

The lands have not been surveyed, but are under contract No. 76, made June 19, 1900, for survey. No returns have yet been received. The estimated area is 25,628 acres. This office does not know the extent of that portion of the reservation which may be unoccupied, because it does not know how many settlers are on the reservation. On page 5 of a report from Special Agent S. J. Holsinger, dated February 1, 1900, herewith, he states that there are some six or eight settlers along the Government ditch, but it is presumed there are more settlers on other parts of the reservation. Special Agent Joseph Chellew, in report dated May 9, 1891 (p. 5), herewith, describes the land as in a mountainous region, the means of access being over a rough and rugged road for over 10 miles, another 10 or 15 miles being a sandy desert, and states that the total amount of the land that can be irrigated for stock purposes will not exceed 300 or 400 acres.

All of the buildings which were transferred with the reservation have been sold under departmental authority, except five, one of which has been totally dismantled.

There is a Government ditch on the reservation which has been taken possession of by certain desperate characters, who would not allow the custodian appointed by the Department to go upon and assume charge thereof. This office has held, and does so now, that this irrigating ditch is an improvement, and that settlers thereon can gain no title thereto, but it and the water right must be sold under said act of July 5, 1884. An attempt was made through the Department of Justice to have the trespassers removed, but three grand juries in the Territory ignored the charges against them. These men seem to control the best land and the entire water supply on the reservation. (See reports of Mr. Holsinger of February 1, 1900, and December 13, 1900, herewith.)

These trespassers on March 24, 1899, obtained a perpetual injunction against the custodian restraining him from interfering with the ditch.

Because this reservation was relinquished prior to the passage of the act of August 18, 1894, and because of the extent of its area this office holds that the lands therein are subject to settlement under the said act. Until the survey is made and parties are permitted to make homestead entries this office can not determine the rights of said parties to the lands settled on.

This office has no information in regard to the irrigation of the land, except reference already made to the Government ditch and the reference thereto contained in the reports of the special agents, to which attention is invited.

The approximate number of persons on the reservation may be obtained by a special agent, but the descriptions of the lands claimed by them could not be determined in the absence of the official plats of survey.

There are two special agents in Arizona now available, Messrs. S. J. Holsinger and A. F. Leach.

This office knows of no reason why the reservation may not "be reserved for some public use," said reservation being subject to all valid claims that have attached to the land.

As to the advisability of locating the Indians thereon, your attention is invited to Mr. Holsinger's reports as to the character and temper of the settlers on the land.

Very respectfully,

W. A. RICHARDS,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, November 27, 1901.

SIR: I transmit, herewith, a copy of a communication of November 21, 1900, from the Commissioner of Indian Affairs, relative to certain Mohave Apache Indians from the San Carlos Agency, Ariz., living on the Camp McDowell abandoned military reservation, and in the Verde Valley, Arizona.

By the act of August 23, 1894, the Camp McDowell reservation is opened to settlement under the public-land laws of the United States, except such legal subdivisions as have Government improvements thereon, and except also such other parts as are now or may be reserved for some public use.

It is shown by the Commissioner's letter that some 200 or 300 acres covered by the old military ditch and the land on which is located the buildings, including the parade grounds, the gardens, the water, and all improvements, would support at least 150 Indians.

From the statements made by the Commissioner and the officers of the Indian service and of Special Agent Holsinger of your office, submitted with your report of September 14, 1901, who have carefully investigated this matter, I am satisfied that it is not best to return these Indians to the San Carlos Reservation, and I therefore direct that all the lands of the said Fort McDowell abandoned military reservation, upon which the Government has or had improvements and which by the act of 1894 are reserved from settlement, together with the north half of the said abandoned military reservation, be reserved from entry, settlement, or sale for Indian purposes until the matter may be submitted to Congress and authority obtained for allotting the lands thereof to the said Indians.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
Washington, November 27, 1901.

SIR: In accordance with your recommendation of November 21, 1900, I have directed the Commissioner of the General Land Office to

reserve for Indian purposes the lands of the Fort McDowell Military Reservation in Arizona, which by the act of 1894 are reserved from settlement, and also the north half of the said military reservation, until action thereon can be had from the Congress.

You are hereby requested to prepare a report in this case for transmission to Congress looking to the acquiring of these lands for allotment to the Mohave Apaches now living on said lands, and to those living in the Verde Valley, Arizona.

The inclosures to your letter are herewith returned.

I transmit for your consideration a copy of a report of the Commissioner of the General Land Office, dated September 14, 1901, and its inclosures. The inclosures to said report should be returned to the Commissioner when no longer needed by you.

Very respectfully,

E. A. HITCHCOCK, *Secretary.*

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 12, 1901.

SIR: This office has the honor to acknowledge the receipt of your letter of the 27th ultimo relative to the condition of certain Mohave Apache Indians who are now living in the Verde Valley and upon the Camp McDowell abandoned military reservation, Arizona, and as to the desirability of giving them homes on this abandoned military reserve in order that they may become self-supporting.

You state that you have directed the Commissioner of the General Land Office "to reserve for Indian purposes the lands of the Fort McDowell Military Reservation in Arizona, which by the act of 1894 are reserved from settlement, and also the north half of the said military reservation, until action thereon can be had from the Congress," and instruct this office to prepare a report in this case for transmission to Congress, "looking to the acquiring of these lands for allotment to the Mohave Apaches now living on said lands, and to those living in the Verde Valley, Arizona."

In reply I have to say that in accordance with your instructions a draft of a bill has been prepared which if enacted into a law will provide homes on the said abandoned military reservation for the Mohave Apaches now living there and along the Verde River, and make them able to earn their own living.

In connection with this proposed legislation for the relief of these needy Indians, it is noticed that Inspector A. J. Duncan, in his report dated October 5, 1900, states that there is an opportunity to obtain the two or three hundred acres which are irrigated by the old military ditch at Camp McDowell; that at the time this military reservation was abandoned the lands on which the buildings are located, and also the parade grounds, the gardens, the water, and all improvements were reserved from entry, but have forcibly been taken possession of by some Mexicans and whites; that these lands should be set aside for the use of the said Indians, and he recommends that such action be taken.

In the report dated February 1, 1900, from Special Agent S. J. Holsinger, of the General Land Office, it is stated that all of the

improvements made by the Government are now in possession of and claimed as individual property by squatters; and that the said irrigating ditch has also been squatted upon and reopened, but no material change has been made in it and it remains practically the same ditch constructed by the Government. Further, this special agent of the General Land Office, after setting out at some length the condition of the buildings sold and unsold at this post, adds that the only other improvements not yet disposed of are the old Government ditch, the Government farm and garden, the parade grounds, the target practice grounds, and the post grounds proper.

In a later report, dated December 13, 1900, Special Agent Holsinger states that recently the surveyor-general for Arizona let a contract for the surveying of the reservation, whereupon a general rush to that district took place, with the result that renewed complaints were made to him of unlawful claim jumping, etc.; that he proceeded to the camp in order to prevent a clash between certain settlers and claim jumpers and found that nearly all of the recent settlements have been made for speculative purposes, as no substantial improvements are being made; that the lands where water is available and where water has been used are situated north of the old camp or on the northern half of the reservation, and the recent settlements have almost wholly been made on the south half and within what is known as the McDowell reservoir site; that in view of the attitude of the settlers who insist upon proprietorship in the Government ditch and the lands covered by it, which are reserved as Government improvements under the law, all of the lands on the reserve should be immediately withdrawn from settlement until such time as a careful investigation can be made of the matter; that, personally, he would favor making a small Indian reservation of the lands not needed for a reservoir; that without a single exception all persons of whom he made inquiry admitted that the Indians were honest and industrious, but were not wanted; that something should be done for these Indians, who dread the very name of San Carlos, and declare that they would rather remain poverty stricken, as they are, than return to San Carlos, and that the north half of the reserve would make an ideal Indian reservation.

The Acting Commissioner of the General Land Office, in letter to the Department dated September 14, 1901, giving the present status of this reservation, reports that the lands of the same are under contract for survey; that the estimated area is 25,628 acres; that it is not known how much of the same is unoccupied; that all of the buildings which were transferred with the reservation have been sold, except five, one of which is totally dismantled; that his office has held and does hold that the Government irrigating ditch is an improvement, and that settlers thereon can not get any title thereto; that because this reservation was relinquished prior to the passage of the act of August 18, 1894, and in view of its area the lands of the same are subject to settlement under the said act of Congress; that until the survey is made and parties are permitted to make homestead entries the rights of the settlers on the lands entered can not be determined, and that he "knows of no reason why the reservation may not 'be reserved for some public use,' said reservation being subject to all valid claims that have attached to the land."

From the correspondence and reports in the case it would seem that practically all the available agricultural lands of the reserve, excepting

the tracts containing Government improvements, have been settled upon legally and in good faith by persons in accordance with the said act of August 23, 1894, and that these settlers have a valid and vested right to the lands so settled upon, which they will be allowed to prove up in due course as soon as the General Land Office receives the official plats of survey of the reservation. Such lands could not, therefore, be secured for Indian purposes without special legislation from Congress providing therefor; and this office would not wish to have these settlers disturbed. It further appears that even the lands containing Government improvements and reserved under the said act of Congress have also been settled upon, though unlawfully. These "legal subdivisions as have Government improvements thereon," and so reserved, are shown by the papers (including an official map from the War Department) on file in the General Land Office to consist of (1) the immediate site of the old camp, which contains a good artesian well; (2) the post garden; (3) the United States Government farm; (4) the lands lying north of the old camp and embracing or containing the old Government ditch used for irrigating purposes, and (5) the target-practice grounds.

From the said map it is seen that the reserve is in the shape of a parallelogram about 10 miles long by 4 miles wide, with its long axis lying north and south, and that the valuable lands are situated in the arroyo or valley (through which the Verde River runs) paralleling the longer axis; that the old camp site is situated about in the middle of the tract and a mile from the western boundary line of the same, and that the said irrigating ditch extends northeast, after passing the lands shown as the Government farm, for a distance of about a mile and a half.

While it is not desired that the entire north half of the reservation, which would contain an area of about 13,000 acres, should be withdrawn for an Indian reservation, as no doubt there are bona fide settlers having legal rights therein who would have to be bought out, yet it is desired that the lands containing the Government improvements which have been reserved by the Department, as heretofore set out, be allotted to the Indians. As shown by the correspondence, the General Land Office holds that the ditch is an improvement, but this office is in doubt as to just how much land this ditch, after it leaves the Government farm, will embrace. It is thought, however, that it would embrace all the land or lands that can be irrigated by it; and if this view be correct it would include all that part of the valley south of the river or intake and west of the Rio Verde. This would probably make the total acreage secured to the Indians between 600 and 1,000 acres.

This office heartily approves of the plan of settling these Indians on this abandoned military reservation, and though Inspector Duncan states that there are but 28 Indians now living at Camp McDowell and that there are 225 at Camp Verde, with possibly 50 more scattered along the Verde Valley at different places, it is thought that should land be allotted at Camp McDowell many of the Indians at Camp Verde and at other places would come to the abandoned reserve for the purpose of getting homes. While it might appear from the foregoing that it is intended by the proposed legislation to allot between 600 and 1,000 acres to 350 Indians, yet there is not this number now living at the old post, and it is not thought that all those

scattered along the Verde River and Valley would come for allotments. However, under the general allotment act they could be allotted pro rata, and in case the number of those desiring homes should be too large, allotments could then be made to heads of families and adults in such amounts as the circumstances might require.

However, before asking that the matter be laid before Congress, it is suggested, in view of the uncertainty as to just what lands are embraced or reserved with the said Government irrigating ditch, and as to whether or not some Government improvements have been sold and removed from certain tracts and the same lawfully entered under the provisions of the said act, that the drafted bill be referred to the Commissioner of the General Land Office, with the correspondence in the case, for an expression of his views as to whether or not it fully covers all of the lands reserved under the terms of the act of August 23, 1894, from entry, and if, in his opinion, it would infringe on any valid rights of settlers thereon.

As per your instructions, I return herewith the inclosures which accompanied the letter dated September 14 last from the Commissioner of the General Land Office for the files of his office, copies of the same having been made for transmission to Congress when his reply, together with your further instructions in the premises, are received.

A copy of this letter and the draft of the said bill are also transmitted herewith.

Very respectfully, your obedient servant,

W. A. JONES, *Commissioner*.

The SECRETARY OF THE INTERIOR.

A BILL to provide homes on the abandoned military reservation of Camp McDowell, Arizona, for the Mohave Apache Indians now residing there and in the vicinity.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to cause, so soon as practicable, the allotment in severalty of the lands already withdrawn from homestead entry and settlement by him under the provisions of the act of Congress approved August twenty-third, eighteen hundred and ninety-four, United States Statutes at Large, volume twenty-eight, page four hundred and ninety-one, for Indian purposes on the Camp McDowell abandoned military reservation in Arizona Territory, to such Mohave Apache Indians as are now living thereon or in the vicinity, such allotment to be in accordance with and under the provisions of the act of Congress approved February eighth, eighteen hundred and eighty-seven (Twenty-fourth Statutes, three hundred and eighty-eight), as amended by the act of February twenty-eighth, eighteen hundred and ninety-one (Twenty-sixth Statutes, seven hundred and ninety-four), and known as the general allotment act: *Provided, however*, That should there not be sufficient land to justify his dividing the same pro rata among the said Indians he shall allot the same in such tracts or amounts as he shall deem just to the heads of families and to adult Indians: *And provided further*, That the lands so to be allotted and reserved shall include only those containing the Government improvements on the said abandoned military post, consisting of (1) the immediate site of the old camp, which contains a good artesian well, (2) the post garden, (3) the United States Government farm, (4) the lands lying north of the old camp and embracing or containing the old Government irrigating ditch, (5) the target-practice grounds, and any other land reserved from entry by the said act of August twenty-third, eighteen hundred and ninety-four.

DEPARTMENT OF THE INTERIOR,
Washington, December 14, 1901.

SIR: Referring to Department letter of the 27th ultimo, directing that all lands of the Fort McDowell abandoned military reservation upon which the Government has or had improvements, and which by the act of 1894 are reserved from settlement, together with the north half of the said abandoned military reservation, be reserved from entry, settlement, or sale for Indian purposes until the matter may be submitted to Congress and authority obtained for allotting the lands thereof to the said Indians, I transmit herewith a report of the Commissioner of Indian Affairs of the 12th instant, and accompanying papers, together with a draft of a bill to enable the Department to allot said lands to the Mohave Apache Indians.

This matter is referred for your consideration and report, the papers inclosed to be returned to the Department.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., December 21, 1901.

SIR: I have the honor to acknowledge receipt of your letter of December 14, 1901, transmitting a report from the Commissioner of Indian Affairs and accompanying papers, together with a draft of a bill to enable the Department to allot lands in the Camp McDowell abandoned military reservation, Arizona, to the Mohave Apache Indians.

The proposed bill reads as follows:

That the Secretary of the Interior be, and he is hereby, authorized and directed to cause, as soon as practicable, the allotment in severalty of the lands already withdrawn from homestead entry and settlement by him under the provisions of the act of Congress approved August 23, 1894 (U. S. Stat. L., vol. 28, p. 491), for Indian purposes, on the Camp McDowell abandoned military reservation in Arizona Territory, to such Mohave Apache Indians as are now living thereon or in the vicinity, such allotment to be in accordance with and under the provisions of the act of Congress approved February 8, 1887 (24 Stat., 388), as amended by the act of February 28, 1891 (26 Stat., 794), and known as the general allotment act: *Provided, however,* That should there be not sufficient land to justify his dividing the same pro rata among the Indians he shall allot the same in such tracts or amounts as he shall deem just to the heads of families and to adult Indians: *And provided further,* That the lands so to be allotted and reserved shall include only those containing the Government improvements on the said abandoned military post, consisting of (1) the immediate site of the old camp, which contains a good artesian well; (2) the post garden; (3) the United States farm; (4) the lands lying north of the old camp and embracing or containing the old Government irrigating ditch; (5) the target-practice grounds and any other land reserved from entry by the act of August 23, 1894.

In reply I have the honor to report that this reservation was established by Executive order of April 12, 1867, and is situated in Maricopa County, approximately in townships 3, 4, and 5, ranges 6 and 7 east, Arizona.

Said reservation was transferred to this Department February 14, 1891, for disposal under act of July 5, 1884 (23 Stat., 103). There were 30 buildings transferred with the reservation.

The lands have not been surveyed, but are under contract No. 76, made June 19, 1900, for survey. No returns have yet been received. The estimated area is 25,628 acres. This office does not know the extent of that portion of the reservation which may be unoccupied, because it does not know how many settlers are on the reservation. On page 5 of the report from Special Agent S. J. Holsinger, dated February 1, 1900, herewith, he states that there are six or eight settlers along the Government ditch, but it is presumed there are more settlers on other parts of the reservation. Special Agent Joseph Chelley, in report dated May 9, 1891 (page 5), herewith describes the land as in a mountainous region, the means of access being over a rough and rugged road for over 10 miles, another 10 or 15 miles being a sandy desert, and states that the total amount of land that can be irrigated for stock purposes will not exceed 300 or 400 acres.

All the buildings which were on the reservation have been sold under departmental authority except five, one of which has been totally dismantled. There is a Government ditch on the reservation which has been taken possession of by certain desperate characters, who would not allow the custodian, appointed by the Government, to go upon and assume charge thereof.

John Madison was appointed custodian of this reservation by the Secretary of the Interior on December 11, 1895, but from that date up to the present time he has never been able to secure possession of the reservation, because, as he has repeatedly reported, trespassers on the reservation would not permit him to exercise any authority as custodian. This condition of affairs was reported to the Department February 1 and June 4, 1896, on the latter date a recommendation being made that the Attorney-General be requested to instruct the officials of his Department in Arizona to cause the trespassers to vacate the buildings immediately.

Under date of March 12, 1897 (letter herewith), the Attorney-General forwarded to the Department a letter from the district attorney of Arizona showing that the matter had been presented to three grand juries, all ignoring the charges, and the Attorney-General then said that under the circumstances the district attorney had been advised to take no further action in regard thereto.

Again, on December 23, 1897, the attention of the Interior Department was called to this matter in order that such action might be taken as was deemed advisable.

Under instructions from the Department, dated November 10, 1897, the custodian was called on to report by whom the canal was constructed, and he reported on October 14, 1897, that the ditch was constructed by the Government, and that the land known as the Government garden, about 50 acres, was fenced and put in cultivation by the Government; that certain parties claimed the ditch and would not let others who have located claims below have water from it, and that when there is an excess of water they turn it back into the Rio Verde, and that the ditch will carry sufficient water for all the land under the ditch below the garden tract.

By letter "C," of October 3, 1898, it was suggested to the Department that the Attorney-General of the United States be requested to instruct the United States district attorney for Arizona to defend Mr. Madison in a suit brought against him by the trespassers.

The Department in April, 1899, referred to this office for report a

letter from the Acting Attorney-General of the United States, dated April 18, 1899, inclosing a copy of a letter dated April 13, 1899, from the United States attorney for the Territory of Arizona, reporting the result of the trial of James McCann et al. against John Madison, involving "the right of John Madison as custodian of the Government improvements on the Camp McDowell military reservation (abandoned) and to the possession of the land formerly used as a Government farm and garden, and in which a temporary injunction was issued restraining the said Madison from interfering with the plaintiffs in their use of the canal." The suit was instituted in the Territorial court. Report was made to the Department April 26, 1899, and the papers inclosed.

On March 24, 1899, the custodian reported that the suit had been decided against him. (See his letter inclosed. See letter of Attorney-General United States of October 10, 1898; also letter of custodian of March 28, 1896; also report of custodian for the month of March, 1899.)

Because the reservation was relinquished prior to the passage of the act of August 23, 1894, and because of the extent of its area this office holds that the land therein is subject to settlement under said act. Until the survey is made and parties are permitted to make homestead entries this office can not determine the rights of any of said parties to the land settled on.

This office has no information in regard to the irrigation of the land except reference already made to the Government ditch and the reference thereto contained in the reports of the special agents, to which attention is invited.

This office has no objections to offer to the proposed legislation, but suggests that a proviso be inserted in the bill excepting from its operations all bona fide claims which have attached to the land.

The parties who have settled upon that portion of the reservation having Government improvements thereon, which includes the ditch or canal, have acquired no rights thereto, as these portions of the reservation are reserved from entry, both by the act of July 5, 1884 (23 Stat., 103), and the act of August 23, 1894 (28 Stat., 491).

It is held by this office that any legal subdivision through which the said ditch may be found to run after the extension of the public survey over the reservation, as well as any subdivision containing Government improvements of any kind, are reserved from settlement and entry by said acts.

The papers submitted herewith are inclosed.

Very respectfully,

BINGER HERMANN, *Commissioner.*

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 13, 1902.

SIR: This office has the honor to acknowledge the receipt, by your reference of the 7th instant for report, of a communication dated December 21, 1901, from the Commissioner of the General Land Office reporting upon the draft of a proposed bill to enable the Department to allot lands in the Camp McDowell abandoned military reservation,

Arizona Territory, to certain Mohave Apache Indians who are now living in the Verde Valley and upon the said abandoned military reservation.

Under date of November 27, 1901, you directed this office to make report for transmission to Congress as to the desirability of giving the said Indians homes on this abandoned military reserve, to the end that they might become self-supporting and to prepare a draft of a bill to be also so transmitted, "looking to the acquiring of these lands for allotment to the Mohave Apaches, now living on said lands, and to those living in the Verde Valley, Arizona." Reply was made to the Department under date of December 12, 1901, and the proposed draft of a bill, as above indicated, submitted with the suggestion that it be referred to the Commissioner of the General Land Office "for an expression of his views as to whether or not it fully covers all of the lands reserved under the terms of the act of August 23, 1894, from entry, and if in his opinion it would infringe on any valid rights of settlers on the reservation under consideration."

The Commissioner of the General Land Office, in his letter of the 21st ultimo, sets out the present condition of this abandoned post and cites the action had by his office to obtain possession from illegal squatters of the lands containing Government improvements. He adds as follows relative to the proposed legislation and as to persons not acquiring any rights to the Government irrigating ditch and the other improvements:

Because the reservation was relinquished prior to the passage of the act of August 23, 1894, and because of the extent of its area, this office holds that the land therein is subject to settlement under said act. Until the survey is made and parties are permitted to make homestead entries, this office can not determine the rights of any of said parties to the land settled on.

This office has no objections to offer to the proposed legislation, but suggests that a proviso be inserted in the bill excepting from its operations all bona fide claims which have attached to the land.

The parties who have settled upon that portion of the reservation having Government improvements thereon, which includes the ditch or canal, have acquired no rights thereto, as these portions of the reservation are reserved from entry, both by the act of July 5, 1884 (23 Stat., 103), and the act of August 23, 1894 (28 Stat., 491).

It is held by this office that any legal subdivision through which the said ditch may be found to run after the extension of the public survey over the reservation, as well as any subdivision containing Government improvements of any kind, are reserved from settlement and entry by said acts.

Relative to the suggestion of the General Land Office that a proviso, above quoted, be inserted in the bill, I have to say that while it already stipulates that the lands to be allotted shall include only those containing Government improvements, and therefore reserved from entry by law, yet it might be an additional safeguard to add the suggested proviso, and I have therefore included the same in the bill.

This proposed draft of a bill, if enacted into a law, will no doubt provide homes on the said abandoned military reservation for the Mohave Apaches now living there and along the Verde River and make them able to earn their own living.

In connection with this proposed legislation for the relief of these needy Indians and in order that the Congress may have full information in the premises, the facts as to these Mohave Apaches and the lands which it is desired to allot them are set out at some length as follows:

October 5, 1900, United States Indian Inspector A. J. Duncan, reporting upon the condition of these Indians, who belong to the San

Carlos Agency, Ariz., stated that there were about fifty families of them living along the Verde River and Valley and at the said abandoned camp in destitute circumstances with no apparent means of subsistence or protection from the cold during the winter months; that to return them to the San Carlos Reservation would entail considerable expense to the Government and besides be a very difficult undertaking, as the Indians claim this region as their old home and would, no doubt, scatter to the mountains should an attempt be made to arrest and return them; that there is available land at the said abandoned camp, which could be given them as a home; that they are honest in their desire to earn their own living and have appealed in a pathetic manner to have land given them at this place; that they number about 350 persons and are at present working for the whites to eke out a mere existence; that they also cultivate small tracts of land loaned to them for the purpose of raising something, and at one time attempted to dig out a ditch, but it was a failure; that the people who have settled around this military reservation are comparatively new settlers, consisting of Mexicans and very poor whites; that with the exception of some cowboys and Mexicans, the Indians are well treated and the petitions sent to this Department requesting their removal and complaining of their conduct must be taken *cum grano salis*, as it is to the interest of these Mexicans and whites to obtain the reserve lands of the abandoned military reservation for themselves; that these Indians have been peaceable and are cheerful and comparatively happy, and will suffer anything rather than go back to San Carlos; that they are industrious and hard workers and say they will support themselves where they are if the Government will only give them a chance, and that the dictates of humanity would require that they be not forced back to San Carlos.

As to the land on the abandoned military reservation, he reports that there is an opportunity to obtain two or three hundred acres which is irrigated by the old military ditch at this place; that at the time Camp McDowell was abandoned the land on which the buildings are located, and also the parade ground, the gardens, the water, and all improvements, were reserved from entry, but have forcibly been taken possession of by some Mexicans and whites; that it could be set aside for the use of these Indians, and he recommends that this be done.

The agent of the San Carlos Agency stated in a report, dated October 3, 1900, that these Indians belonged to the best element; that they have always been industrious and desirous of going out among the whites to make their own living; that the Verde Valley is their old home, and that they should be given land at this abandoned military post.

The status of Camp McDowell is given in the annual report of the General Land Office for 1899, as follows:

Camp McDowell, situated in Maricopa County, Ts. 3, 4, and 5 N., Rs. 6 and 7 E. Established by Executive order of April 12, 1887. Relinquished February 14, 1891. On September 16, 1890, the War Department reported that there were 30 buildings and other improvements on the reservation. Not surveyed. Buildings offered for sale September 22, 1896, and 12 sold. Subject to disposal under act of August 23, 1894 (28 Stat L., 491). Unsold buildings subject to private sale.

The said act of August 23, 1894, provides in section 1, as follows:

That all lands not already disposed of included within the limits of any abandoned military reservation heretofore placed under the control of the Secretary of the Inte-

rior for disposition under the act approved July fifth, eighteen hundred and eighty-four, the disposal of which has not been provided for by a subsequent act of Congress, where the area exceeds five thousand acres, except such legal subdivisions as have Government improvements thereon, and except also such other parts as are now or may be reserved for some public use, are hereby opened to settlement under the public-land laws of the United States, and a preference right of entry for a period of six months from the date of this act shall be given all bona fide settlers who are qualified to enter under the homestead law and have made improvements and are now residing upon any agricultural lands in said reservations, and for a period of six months from the date of settlement when that shall occur after the date of this act. * * *

Upon informal inquiry at the General Land Office, it is learned that the public survey of this reservation has been about completed, though the returns of such survey have not as yet been sent in; that one John Madison was appointed custodian of the reservation by this Department on December 11, 1895, but from the date of his appointment up to the present time has not been able to secure possession of the Government improvements on the reservation, as the trespassing whites have prevented him; and that some correspondence has been had by the Commissioner of the General Land Office with the Department looking to dispossessing the said trespassers of the improvements and lands they are unlawfully occupying. It is learned, further, that a special agent (S. J. Holsinger) of the General Land Office made a report, February 1, 1900, on the status of the reservation. In this report he states as follows:

* * * The buildings unsold are * * * company barracks No. 11, company quarters (officers) Nos. 2, 3, 4, and 5.

No. 11 is entirely dismantled, nothing now remaining except the adobe walls.

My information is that F. M. McCann removed the doors, shutters, and windows from this building and T. H. Jones and Henry Blue tore down the roof, framework, and all other wood material and appropriated the same to their own use. * * *

Officers' quarters Nos. 2, 3, 4, and 5 were partially dismantled by F. M. McCann, who removed doors, windows, shutters, and floors. The buildings yet retain roof and framework and are occupied by nomadic Mexicans.

The only other improvements yet not disposed of are the old Government ditch, the Government farm and garden, the parade grounds, the target-practice grounds, and the post grounds proper.

* * * * *
I found that all of the improvements made by the Government are now in the possession and claimed as individual property by squatters. John Miller and C. V. Schauver (latter lately deceased) occupy, have fenced and cultivated the cavalry-parade and target-practice grounds. J. N. Asher and J. D. Adams occupy and have cultivated for several years the Government farm and garden.

J. N. Asher, J. D. Adams, James McCann, Raman Piannes, et al. have possession of the old Government ditch and hold and use it to the exclusion of all other settlers upon the reservation (numbering some six or eight).

The Government ditch formerly used to irrigate the Government farm and garden and to supply water for the post stock was used up to the date of abandoning the military post—1891. It was not used for three or four years thereafter, and as it crosses a country full of washes said ditch was soon filled with silt and the head gate was washed away and a large bar formed at the head of the ditch.

In 1895 James McCann, Neri Osborn, et al., posted notices locating upon the old Government ditch a subsequent water right, and after duly recording said notice in the county records of Maricopa County proceeded to reopen said ditch.

I made a careful examination of said ditch and am satisfied that the present ditch held by James McCann and others is practically the same ditch constructed by the Government. No material change has been made. The head of the ditch or "intake" has been extended through a sand bar which had been formed in the old bed of the river, but this is incident to any ditch.

The Acting Commissioner of the General Land Office, in letter to the Department dated September 14, 1901, gives a résumé of the status of this reservation, above set out, and adds that he "knows of

no reason why the reservation may not 'be reserved for some public use,' said reservation being subject to all valid claims that have attached to the land."

The said act of August 23, 1894, specifically provides that all of this reservation, which contains an area, approximately, of 25,000 acres, is opened to public settlement, "except such legal subdivisions as have Government improvements thereon, and except also such other parts as are now or may be reserved for some public use."

The correspondence and papers, including an official map from the War Department, on file in the General Land Office show that the Government improvements at this abandoned military post consist of (1) the immediate site of the old camp, which contains a good artesian well, (2) the post garden, (3) the United States Government farm, (4) the lands lying north of the old camp and embracing or containing the old Government irrigating ditch, and (5) the target-practice grounds.

This office approves of the plan of settling these Indians upon this abandoned military reservation, and though Inspector Duncan states that there are but 28 Indians now living at Camp McDowell and that there are 225 at Camp Verde, with possibly 50 more scattered along the Verde Valley at different places, it is thought that should land be secured at Camp McDowell many of the Indians at Camp Verde and at other places would come to this abandoned camp for the purpose of getting homes. It is therefore not thought necessary that an effort should be made to purchase lands and improvements along the Verde River and near Camp Verde for the purpose of settling the Indians thereon, as suggested by the said inspector.

It has been held (17 Op. Atty. Genl., 258) that the power of the President "is broad enough to cover a reservation of public lands for Indian purposes, which is a measure in the public interest and for the public use."

The above-quoted act of Congress places this reservation under the control of the Secretary of the Interior for certain disposition, but excepts from such disposal such parts "as may be reserved for some public use;" and you have recently withdrawn from entry or disposal and directed the Commissioner of the General Land Office "to reserve for Indian purposes the lands of the Fort McDowell Military Reservation in Arizona, which, by the act of 1894, are reserved from settlement * * *." These lands, which are thought not to exceed 400 acres in area, are therefore now available to these needy and deserving Mohave Apaches, and should be allotted to them in severalty; and I have earnestly to recommend, should you approve the same, that Congress be asked to grant the desired legislation in the premises.

Duplicate copies of this report and of the other correspondence in the case are transmitted herewith, and the communication referred to this office for report is herewith returned.

Very respectfully, your obedient servant,

W. A. JONES, *Commissioner*.

The SECRETARY OF THE INTERIOR.

A BILL to provide homes on the abandoned military reservation of Camp McDowell, Arizona, for the Mohave Apache Indians now residing there and in the vicinity.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby,

authorized and directed to cause, so soon as practicable, the allotment in severalty of the lands already withdrawn from homestead entry and settlement by him under the provisions of the Act of Congress approved August twenty-third, eighteen hundred and ninety-four (United States Statutes at Large, volume twenty-eight, page four hundred and ninety-one), for Indian purposes on the Camp McDowell abandoned military reservation in Arizona Territory, to such Mohave Apache Indians as are now living thereon or in the vicinity, such allotment to be in accordance with and under the provisions of the Act of Congress approved February eighth, eighteen hundred and eighty-seven (Twenty-fourth Statutes, three hundred and eighty-eight), as amended by the Act of February twenty-eighth, eighteen hundred and ninety-one (Twenty-sixth Statutes, seven hundred and ninety-four), and known as the general allotment Act: *Provided, however,* That should there not be sufficient land to justify his dividing the same pro rata among the said Indians he shall allot the same in such tracts or amounts as he shall deem just to the heads of families and to adult Indians: *And provided further,* That the lands so to be allotted and reserved shall not embrace or infringe upon the bona fide claims which have attached to the land, and shall include only those lands containing Government improvements on the said abandoned military post, consisting of (1) the immediate site of the old camp, which contains a good artesian well, (2) the post garden, (3) the United States Government farm, (4) the lands lying north of the old camp and embracing or containing the old Government irrigating ditch, (5) the target practice grounds, and any other land reserved from entry by the said Act of August twenty-third, eighteen hundred and ninety-four.

O